

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
(COLUMBIA DIVISION)

ANTONIO CABALLERO,

CASE NO.: 3:20-cv-04485-MGL

Plaintiff,

v.

FUERZAS ARMADAS
REVOLUCIONARIAS DE COLOMBIA,
et al.,

Defendants,

v.

BANK OF AMERICA, N.A.,

Garnishee,

and,

PETRÓLEOS DE VENEZUELA, S.A.,

Intervenor.

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NOTICE OF JOINT STATUS REPORT

TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE NOTICE THAT, in accordance with the Text Order issued by U.S. District Judge Mary Geiger Lewis on June 3, 2021 [D.E. 44], Plaintiff Antonio Caballero (“Caballero”), Garnishee Bank of America, N.A. (“BANA”), and Intervenor, Petróleos de Venezuela, S.A. (“PDVSA”), by and through their respective counsel of record, hereby provide the following joint status report:

1. On June 2, 2021, the Court stayed these proceedings. D.E. 43. In its stay order, the Court acknowledged that “Caballero and PDVSA are currently litigating similar issues in the United States District Court for the Western District of New York (the ‘WDNY Proceeding’) and the Southern District of Texas Proceeding (the ‘Texas Proceeding’).” *Id.* at 2.

2. Further, as noted in the previous Joint Status Reports [D.E. 47, D.E. 49, D.E. 51, D.E. 53, D.E. 55, D.E. 57, D.E. 59, D.E. 61, D.E. 63, D.E. 65, D.E. 67, D.E. 69, D.E. 71, D.E. 73, D.E. 75], PDVSA, represented by White & Case LLP, and Caballero have briefed certain pertinent issues (many of which are relevant to this garnishment proceeding), including subject matter and personal jurisdiction, and the issue of PDVSA's agency or instrumentality status, in both the WDNY Proceeding and the Texas Proceeding.

3. As mentioned in the previous status report, the court presiding over the WDNY Proceeding ordered that such proceeding be held in abeyance pending a decision from the Second Circuit in *Havlish v. Bin Laden*, No. 23-258 (2d Cir. 2023) (the "*Havlish* Action"). D.E. 65 at ¶ 4. No motions are pending in the WDNY Proceeding. *Id.*

4. In addition to the WDNY Proceeding, Caballero's action currently pending before Judge Valerie Caproni in the United States District Court for the Southern District of New York ("SDNY Proceeding") is also stayed pending the Second Circuit's decision in the *Havlish* Action. In the SDNY Proceeding, two separate counsels (including White & Case) purporting to represent PDVSA and certain PDVSA subsidiaries appeared and filed separate motions to vacate certain Caballero writs. After a hearing held on March 20, 2025, the court in the SDNY Proceeding stayed the action pending a decision in the *Havlish* Action.

5. The Second Circuit heard oral argument in the *Havlish* Action on October 9, 2024. *Havlish*, Doc. No. 255. As of June 3, 2025, no decision has been issued in the *Havlish* Action.

6. As previously noted, the Texas Proceeding, which had been stayed in favor of the WDNY Proceeding, was unstayed to allow the parties to brief the preclusive effect of final judgment in *Caballero v Vitol, Inc*, No. 4:21-cv-00140 (S.D. Tex.), and to request a broader lifting of the stay, if any party so wished. D.E. 67 ¶¶ 5-6. After briefing was completed, on February 12,

2025, the court in the Texas Proceeding held a motion hearing to determine whether to lift the stay and grant PDVSA's motion to vacate (Texas Proceeding, D.E. 74). Texas Proceeding, D.E. 81 at 1. The court in the Texas Proceeding denied without prejudice PDVSA's request to lift the stay to decide its motion to vacate and ordered that "[t]he issue may be freely raised again following the anticipated ruling by the Second Circuit" in the *Havilish* Action. *Id.* The stay in Texas Proceeding remains in effect.

7. All parties agree that continuation of the stay is warranted.

8. This Court will be notified of any rulings regarding the aforementioned matters.

Dated: June 3, 2025.

Respectfully submitted,

<u>William N. Nettles</u> William N. Nettles Federal ID. #6586 Email: bill@billnettleslaw.com Law Offices of Bill Nettles 2008 Lincoln St Columbia, SC 29205 Tel. 803-814-2826 Joseph I. Zumpano (Admitted PHV, Fla. Bar No. 0056091) Email: jzumpano@zplaw.com Leon N. Patricios (Admitted PHV, Fla. Bar. No. 0012777) Email: lpatricios@zplaw.com Zumpano Patricios, P.A. Coral Gables, FL 33134 Tel. (305) 444-5565 Fax (305) 444-8588 <i>Counsel for Plaintiff Antonio Caballero</i>	<u>/s/ Reid E. Dyer</u> Reid E. Dyer South Carolina Fed. District ID # 10723 Email: reiddy@mvallaw.com Moore & Van Allen, PLLC 78 Wentworth Street Charleston, SC 29401-1428 Tel: 843-579-7045 Fax: 843-579-8754 Dennis M. Campbell (Admitted Pro Hac) Florida Bar No. 271527 Email: dcampbell@campbellmiami.com Email: service@campbellmiami.com Campbell Law Firm PLLC 201 Alhambra Circle, Suite 602 Coral Gables, FL 33134 Tel. 305-444-6040 Fax 305-444-6041 <i>Counsel for Garnishee, Bank of America, N.A.</i>
<u>/s/ Thomas Cull</u> Thomas Cull (D.S.C. No. 12227) White & Case LLP 111 South Wacker Drive	<u>/s/ Margaret N. Fox</u> Margaret N. Fox, Fed ID 10576 James M. Griffin, Fed ID 1053 GRIFFIN HUMPHRIES

<p>Suite 5100 Chicago, IL 60606 United States (312) 881-5400 thomas.cull@whitecase.com</p> <p>Nicole Erb (admitted <i>pro hac vice</i>) Claire A. DeLelle (admitted <i>pro hac vice</i>) White & Case LLP 701 Thirteenth Street N.W. Washington, D.C. 20005 (202) 626-6485 nerb@whitecase.com claire.delelle@whitecase.com</p> <p><i>Counsel for Intervenor Petróleos de Venezuela, S.A.</i></p>	<p>4408 Forest Drive, Suite 300 P.O. Box 999 (29202) Columbia, S.C. 29206 jgriffin@griffinhumphries.com mfox@griffinhumphries.com</p> <p>-and-</p> <p>Marcos Daniel Jiménez New York Bar No. 4881736 <i>Admitted Pro Hac Vice</i> León Cosgrove Jiménez LLP 255 Alhambra Circle, Suite 800 Coral Gables, Florida 33134 Telephone: 305-570-3249 Email: mdj@leoncosgrove.com</p> <p><i>Counsel for Intervenor Petróleos de Venezuela, S.A.</i></p>
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of June 2025, the undersigned electronically
filed the foregoing document with the Clerk of Courts by using the CM/ECF system.

William N. Nettles
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